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August 17, 2022

## BY ECF AND EMAIL

The Honorable Analisa Torres  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Pierce v. Better Holdco, Inc., et al., No. 22-cv-04748 (S.D.N.Y.)

Dear Judge Torres:

The parties in the above-referenced matter hereby submit this joint letter pursuant to Your Honor's Initial Pretrial Scheduling Order filed June 22, 2022. ECF No. 10. That Order requires us to provide: (1) a brief description of the case, including the factual and legal bases for the claim(s) and defense(s); (2) any contemplated motions; and (3) the prospect for settlement, as well as a jointly proposed Case Management Plan and Scheduling Order. *Id.* By separate Order, the Court requested that the parties state whether they consent to proceeding before a Magistrate Judge. ECF No. 9.

**Description of the Case.** Plaintiff Sarah J. Pierce is a former employee of Defendant Better Holdco, Inc. ("Better" or the "Company"). Defendant Vishal Garg is the CEO of Better, and Defendant Nicholas Calamari is the General Counsel. Plaintiff alleges that Better retaliated against her for engaging in protected activity during her employment with Better in violation of New York Labor Law § 740, the New York "whistleblower" law. Plaintiff further alleges that Mr. Garg breached his fiduciary duty purportedly owed to Plaintiff as an officer and shareholder of Better; that Mr. Calamari aided and abetted that breach; and that Mr. Garg defamed her through various statements. Plaintiff further alleges that both Mr. Garg and Mr. Calamari intentionally inflicted emotional distress upon her. For their part, Defendants categorically deny the factual allegations made by Plaintiff and, as explained in the pre-motion letters filed with this Court (*see* ECF No. 19, 21), take the position that Plaintiff has failed to state a claim upon which relief may be granted.

**Motions.** All Defendants filed pre-motion letters regarding forthcoming motions to dismiss on July 7, 2022, and Plaintiff responded on July 14, 2022. ECF Nos. 19, 22-24. This Court has entered a schedule pursuant to which Defendants' motions are due by September 16, 2022, Plaintiff's response is due by October 25, 2022, and Defendants' replies are due by November 18, 2022.

**Prospects for Settlement.** The parties agree that settlement remains unlikely at this time.

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**Case Management Plan.** Given that a schedule for dispositive motions has already been entered, the parties agree that, unless the Court requests otherwise, they will submit a jointly proposed Case Management Plan if the dispositive motions are denied.

**Magistrate Judge.** Pursuant to the Court's June 22, 2022 Order, the parties hereby inform the Court that they do not consent to proceeding before a Magistrate Judge.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Roberta A. Kaplan', written over a horizontal line.

Roberta A. Kaplan  
Timothy S. Martin  
Kate L. Doniger  
KAPLAN HECKER & FINK LLP  
*Counsel for Defendant Better  
Holdco, Inc.*

cc: All Counsel of Record